

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION**

BRIAN HEATH GOMEZ

PETITIONER

v.

CIVIL ACTION NO. 1:23-cv-73-TBM-RPM

HARRISON COUNTY, MISSISSIPPI, *et al.*

RESPONDENTS


CERTIFICATE OF APPEALABILITY - DENIED

A final order adverse to the applicant having been filed in the captioned habeas corpus case, in which the detention complained of arises out of process issued by a state court, this Court, considering the record in the case and the requirements of 28 U.S.C. § 2253, Rule 22(b) of the Federal Rules of Appellate Procedure, and Rule 11(a) of the Rules Governing Section 2254 Cases in the United States District Courts, finds that a Certificate of Appealability should not issue.

To be entitled to a Certificate of Appealability, an applicant must make “a substantial showing of the denial of a constitutional right.” 28 U.S.C. § 2253(c)(2). To meet this burden, the applicant must demonstrate: “(1) that reasonable jurist would find this Court’s ‘assessment of the constitutional claims debatable or wrong,’ or (2) that reasonable jurists would find ‘it debatable whether the petition states a valid claim of the denial of a constitutional right’ and ‘debatable whether [this Court] was correct in its procedural ruling.’” *Wilson v. Epps*, No. 5:07-cv-165-DCB, 2010 WL 3909691, at *2 (S.D. Miss. Oct. 1, 2010) (alteration in original) (quoting *Slack v. McDaniel*, 529 U.S. 473, 484, 120 S. Ct. 1595, 146 L. Ed. 2d 542 (2000)). The Court finds that the applicant has failed to meet either of the criteria set forth by

the Supreme Court in *Slack*, and therefore has failed to make a substantial showing of the denial of a constitutional right. A Certificate of Appealability is denied.

THIS, the 10th day of August, 2023.



TAYLOR B. McNEEL
UNITED STATES DISTRICT JUDGE